



CRR 3562-2021

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 19th OF SEPTEMBER, 2024

CRIMINAL REVISION No. 3562 of 2021

HARSHIL

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Anil Kumar Namdev- Advocate for the petitioner.

Shri Apoorv Joshi- P.L./G.A. for the State.

ORDER

Heard finally, with the consent of the parties.

2] This criminal revision has been filed by the petitioner under Section 397 read with Section 401 of Cr.P.C., assailing the order of framing of charges dated 20.07.2021, passed in Sessions Trial No.391/2021, by XXVIIth Additional Sessions Judge, Indore, arising out of FIR No.268/2021 registered at Police Station Bhanwarkuan, Indore whereby, the charges under Section 420, 406, 467, 468 and 471 of the Indian Penal Code, 1860 have been framed against the petitioner.

3] In brief, the facts of the case are that the petitioner was also involved in the aforesaid case wherein, the main allegation of embezzlement is against co-accused Rohit Bairagi, who had obtained huge sum of money from various needy persons, who were looking for jobs and provided them with forged appointment orders. It is



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alleged against the present petitioner that he was also hand in glove with the main accused, which inference is made on the basis of WhatsApp chats between the petitioner and the co-accused.

4] Counsel for the petitioner has submitted that there is nothing on record to connect the petitioner with the offence, except the memo prepared under Section 27 of the Evidence Act and even in the WhatsApp chats, there is nothing incriminating against the petitioner, except that at one point of time, on 15.12.2020, he had messaged the main accused Rohit Bairagi that some girl is repeatedly complaining him and thus, he (Rohit Bairagi) has to come. It is also submitted that there are as many as 20 complainants, but none have mentioned the name of the present petitioner as the person who was also involved in the aforesaid case in any manner and admittedly, the name of the petitioner is also not mentioned in the FIR, which was lodged on 19.03.2021. Thus, it is submitted that none of the ingredients of the offences alleged against the petitioner are made out against him.

5] Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that although, no incriminating material has been seized from the present petitioner, however, he has chatted with the main accused Rohit Bairagi, which runs into 32 pages.

6] Heard. Having considered the rival submissions and on perusal of the case-diary, this Court find force in the submissions as advanced by the counsel for the petitioner that there is no material available on record to connect the petitioner with the offence, as admittedly, none of the complainants have named the petitioner as one of the persons



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involved in the case, and there is nothing on record to show that any amount was ever credited or obtained by him in any manner, either from the complainants or the co-accused Rohit Bairagi.

7] So far as the WhatsApp chats are concerned, *firstly*, none of the posts are incriminating in any manner, and *secondly*, merely if a person has chatted with another, who is accused of committing an offence, it cannot be presumed, in the absence of any other material on record, that he was also having the knowledge of the offence being committed by the said person, and was hand in glove with him. In such circumstances, this Court is of the considered opinion that none of the ingredients of the offences under Sections 420, 406, 467, 468 and 471 of the Indian Penal Code, are made out against the petitioner even assuming the story of the prosecution to be true. Thus, a case for interference is indeed made out.

8] Accordingly, the petition stands *allowed* and the order of framing charges dated 20.07.2021, passed by the Trial Court is hereby set aside, and the petitioner is hereby discharged from the charges framed against him under Sections 420, 406, 467, 468 and 471 of the Indian Penal Code, 1860.

9] With the aforesaid, petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Bahar